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EUROPEAN SOCIAL CHARTER

Answers to additional questions related to

10th National Report on the implementation of the European Social Charter

submitted by

THE GOVERNMENT OF LATVIA
Articles 2, 3, 4, 5, 6, and 20

CYCLE 2024

Article 2.1.

Please provide information as to whether workers perform work on-call (for example, in healthcare, law enforcement sectors)? If so, are inactive on-call periods when no actual work is carried out compensated (especially for inactive on-call outside of the employer's premises) and, if so, what are the rules on compensation?

In addition to the information Latvia has already provided, we would like to note that there is no statistical data on the number of employees performing on-call work. However, in reality, such a type of work is possible and is being performed.

As already mentioned, Latvia has no specific national regulation as regards on-call time. However, judgments of the Court of Justice of the European Union and national courts provide a clear indication on how to separate working and rest time when performing on-call work.

Generally, the time when an employee is not at the employer's disposal and does not perform his/her work duties is considered rest time according to Section 130, Paragraph one of the Labour Law[1]. However, for example, as it derives from the Judgment of the Senate of 18 June 2020 (Case No. C73475318, SKC–577/2020)[2], on-call time can be classified as working time or rest time, depending on the level of restriction imposed on the worker. So, if the employee is required to be physically present at a location determined by the employer (e.g., hospital, fire station), the entire on-call period is considered working time—even if the employee is not actively performing tasks. If the worker is on stand-by at home or another location of their choice and only needs to be reachable, only the time spent actually working (e.g., responding to a call) counts as working time.

The Labour Law neither requires nor prohibits employers from compensating inactive on-call periods when no actual work is carried out (especially for inactive on-call time outside of the employer's premises). Parties may mutually agree on such compensation.

It must be noted that Section 3, Paragraph four, point 9 of the Law on Remuneration of Officials and Employees of State and Local Government Authorities contains specific regulation providing that State or local government authority may, within the scope of the funds allocated thereto, only provide for the following measures related to additional remuneration for officials (employees) in internal legal acts, binding regulations of the local government, collective agreements, or employment contracts - remuneration for the period

[1] Working time within the meaning of this Law shall mean a period from the beginning until the end of work within the scope of which an employee performs work or is at the disposal of the employer, with the exception of work breaks.

[2] "The status of working time should be assigned to the period of time during which the employee is obliged to be physically present at the place specified by the employer and to be available to the employer in order to be able to provide the relevant services immediately if necessary ("on-call readiness"). On the other hand, if the employee is at the disposal of his/her employer, to the extent that he only needs to be reachable, the employee can organise his/her time in a less restrictive manner and devote it to his/her own interests; in such a case, only the time related to the actual provision of services is considered working time ("on-call readiness")."

which is not spent by the official (employee) at the working place or another place indicated by the authority and which is used by the official (employee) at his/her own discretion, however, he/she arrives at the indicated place upon a relevant request and commences the performance of the duties without delay.
In addition, the social partners have recently come up with an initiative to include the regulation of on-call work in the Labour Law. The discussion on this initiative will continue.

Article 3.1

Please provide information on the content and implementation of national policies (including any existing action plans/strategies) on psychosocial or new and emerging risks in relation to:

- ***the gig or platform economy;***
- ***jobs requiring intense attention or high performance;***
- ***jobs related to stress or traumatic situations at work;***
- ***jobs affected by climate change risks.***

The national policy for occupational safety and health (OSH) is included in the strategic document "Social Protection and Labour Market Policy Guidelines for 2021-2027", adopted by the Cabinet of Ministers on 1 September 2021. The strategy is supported by two 3-year action plans: "Development Plan of Labour Protection Sector for 2021-2023" and "Development Plan of Labour Protection Sector for 2024-2027". These action plans define specific measures and topics to be implemented during the respective periods. These policy documents aim to implement the strategic objectives of the EU Strategic Framework on Health and Safety at Work (2021-2027).

The Development Plans of Labour Protection Sector for the years 2021-2023 and 2024-2027 outline specific measures, expected results, responsible authorities and implementation deadlines. Most of the measures are carried out by the State Labour Inspectorate, the State Employment Agency and the Institute of Occupational Safety and Environmental Health, in cooperation with the Ministry of Welfare and social partners – the Employers' Confederation of Latvia and the Free Trade Union Confederation of Latvia.

The goal of the national strategy is to ensure a safe and healthy working environment and to improve the working lives of employees. As a result, a reduction in the number of serious and lethal accidents at work is expected. The strategy also highlights the increasing number of nervous system diseases and psychological and behavioural disorders associated with overload and burnout at work.

One of the tasks included in both Plans is to raise public awareness, particularly among employers, employees and OSH specialists, regarding labour law and OSH issues (in various forms of employment) and the development of a preventive culture. As part of this task, informative materials are being developed and workshops on different OSH issues are being conducted. **The topics of these activities specifically include the prevention of diseases of the musculoskeletal system, psycho-emotional risks, the effects of climate change, digitalisation issues, technological development, protection against chemical substances, specific risks in various industries, etc.**

Another task included in both Plans refers to improving employees' legal protection and enhancing their understanding and knowledge of employment legal relations, especially for those working in non-standard/new forms of employment. The activities within this task include the elaboration of informative materials and educational initiatives aimed at providing knowledge and guidance for digital platforms, as well as for employers, employees and OSH experts, regarding health and safety in various forms of employment, including platform work and remote work.

Annual Plans of Preventive Measures on OSH are developed at the national level and approved by the Information Council, which includes representatives from the Ministry of Welfare, the State Labour Inspectorate, the Free Trade Union Confederation of Latvia, the Employers' Confederation of Latvia and the Institute for Occupational Safety and Environmental Health. The Plan includes preventive activities, such as the elaboration of informative materials and guidelines, as well as the organisation of seminars and campaigns on specific OSH topics.

In addition to the previously provided information on OSH policy documents, we inform that Latvia is currently working on the transposition of Directive (EU) 2024/2831 of the European Parliament and of the Council of 23 October 2024 on improving working conditions in platform work, including the implementation of Article 12, which addresses OSH aspects for platform workers.

Article 3.2

Please provide information on the relevant occupational health and safety legislation applicable to domestic workers.

Domestic workers as a category of employees are not excluded from the scope of occupational safety and health (OSH) regulations in Latvia. It should be reiterated that the Labour Protection Law applies to all employees, defined as any natural person employed by an employer, including State civil servants and persons employed during production or training practice. The law does not provide for any exemptions based on sectors or specific characteristics of employment.

Therefore, the OSH regulatory framework fully applies to domestic workers, that is, persons engaged in domestic work within an employment relationship.

Article 3.3

Please provide information on measures taken to ensure the supervision of implementation of health and safety regulations by the labour inspection or other competent authorities concerning the following categories of workers:

- ***domestic workers;***
- ***digital platform workers;***
- ***posted workers;***
- ***workers employed through subcontracting;***
- ***the self-employed.***

Control and supervision in the field of employment legal relationships and labour protection is carried out by the State Labour Inspectorate, which conducts an average of 10,000 company inspections annually. The control and supervision activities of the State Labour Inspectorate are applied to all categories of workers, including the vulnerable categories.

The functions and tasks of the State Labour Inspectorate are prescribed in Section 3 of the State Labour Inspectorate Law:

(1) The function of the Labour Inspectorate is the implementation of State supervision and control.

(2) In order to ensure the implementation of the function referred to in Paragraph one of this Section, the Labour Inspectorate shall perform the following tasks:

1) supervise and control observance of the requirements of the regulatory enactments regarding employment legal relationships and labour protection;

2) control how employers and employees mutually fulfil the obligations specified in employment contracts and collective labour agreements;

3) promote social dialogue;

4) take measures to facilitate the prevention of differences of opinion between an employer and employees and, where appropriate, invite representatives of the employees;

5) analyse matters of employment legal relationships and labour protection in order to provide proposals regarding the improvement of regulatory enactments;

6) carry out the investigation of accidents at work and perform uniform registration thereof in accordance with the procedures specified in regulatory enactments;

7) participate in the investigation of cases of occupational disease in accordance with the procedures specified in regulatory enactments;

8) control work equipment at workplaces, the utilisation of personal and collective worker protection equipment, and utilisation of substances harmful and dangerous to health pursuant to the requirements of regulatory enactments;

9) provide information regarding activities of the institutions and specialists competent in work safety issues in the field of labour protection;

10) provide free consultations to employers and employees regarding the requirements of regulatory enactments with respect to employment legal relationships and labour protection; and

11) organise the establishment and ensure the operation of a National Focal Point for the European Agency for Safety and Health at Work.

According to Section 4 of the State Labour Inspectorate Law, the following shall be subject to the supervision and control of the Labour Inspectorate:

1) employers, any other persons who, in the actual conditions, are to be regarded as employers, as well as merchants and authorised persons thereof;

2) undertakings (organisational units in which employees work), workplaces in which an employee or any other person who in the actual conditions is to be regarded as an employee performs work, as well as any other place within the scope of an undertaking, which is accessible to an employee in the course of their work or where an employee works with the permission or order of an employer, and work equipment, also building objects, including building objects owned by a private person during construction work.

The State Labour Inspectorate also conducts an average of four preventive campaigns (thematic inspections) each year, targeting specific industries and focusing on the most critical issues and risks within their working environments.
Regarding self-employed persons, the Labour Protection Law prescribes that they are required to ensure their own safety and health at work, as well as the safety and health of others who may be affected by their work, in line with general labour protection principles. With the amendments to the Labour Protection Law, adopted on 3 October 2019, the protection of self-employed persons was extended. The law now specifies that in situations where self-employed individuals work alongside employees or within a company's work environment, the employer who is also the service recipient (for example, a client who has entered into a contract with the self-employed person) must ensure that the self-employed person is provided with equally safe working conditions as those provided to the company's employees. Self-employed persons are also required to comply with labour protection requirements appropriate to their status. If the service recipient identifies any violations of occupational safety and health regulations or risks to the safety and health of the self-employed person or others, such a unsafe equipment or lack of personal protective equipment, they have the right to suspend or prohibit the work.
In relation to posted workers, the Labour Law defines a posted worker as an employee who temporarily performs work in a country other than the one in which

they normally work. The State Labour Inspectorate applies the same occupational safety and health requirements to posted workers in Latvia as to locally employed workers. In accordance with Directive 96/71/EC of the European Parliament and of the Council concerning the posting of workers in the framework of the provision of services, Latvia has introduced an electronic notification system for posted workers, available at https://posting.vdi.gov.lv/lv/. According to the Labour Law, posted workers must be provided with working conditions and employment terms as prescribed by Latvian legislation, including those related to occupational safety, health and hygiene.

Article 6.2.

Please provide information on the measures taken or planned to guarantee the right to collective bargaining of (i) economically dependent self-employed persons (showing similar features to workers) and (ii) self-employed workers.

Section 108 of the Constitution of Latvia states that the State shall protect the freedom of trade unions. Additionally, the Law on Trade Unions of 6 March 2014 determines the right to establish a trade union and to join a trade union. Pursuant to Section 4 of the Law on Trade Unions:

(1) Everyone has the right to freely, without any direct or indirect discrimination, establish a trade union and, in compliance with the articles of association of a trade union, to join a trade union and also not to join a trade union.

(2) Membership of a person in any trade union or the wish of a person to join or not to join a trade union cannot serve as a basis for restricting the rights of a person.

Thus, there are no legal restrictions that prohibit self-employed workers from establishing a trade union and joining a trade union.

Also, the ILO Committee on Freedom of Association has stated that the right to form trade unions shall be granted to all workers, including those not employed, on the basis of an employment contract, as well as to persons working (holding a position) in the public sector – civil servants and employees of the public administration. In general, within the meaning of Article 2 of ILO Convention No. 87, the concept of worker includes both employees who receive a wage and *also independent and autonomous employees.*

Additionally, it must be noted that Latvia is aware of and follows the Guidelines on the application of EU competition law to collective agreements (Guidelines) regarding the working conditions of solo self-employed individuals. The Guidelines clarify when certain self-employed individuals can come together to negotiate collectively for better working conditions without breaching EU competition rules.

The case-law of national courts in this context also provides significant guidance as the Senate has recognised that family doctors who provide state-funded primary health care services are considered employees within the meaning of Section 108 of the Constitution, who have the right to conclude a collective agreement, or,

more precisely, the right to participate in collective negotiations with the Cabinet of Ministers. The Senate also recognised as justified the obligation imposed by the regional court on the Cabinet of Ministers to conduct collective negotiations with the association "Latvian Association of Family Doctors", which is comparable to a trade union for the representation of the rights of family doctors (Judgment of the Senate. Case No. SKA-7/2025 (A420146920)).

Article 6.4

Please, indicate if the restriction on the right to strike of the members of the armed forces is established by law, and why is it necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health or morals (Article G of the Charter).

In addition, please indicate whether the members of armed forces have other means through which they can effectively negotiate the terms and conditions of employment, including remuneration.

Section 116 of the Constitution of Latvia stipulates that the right to strike, contained in Section 108 of the Constitution, may be restricted in cases provided for by law to protect the rights of other individuals, the democratic structure of the State, and public safety, welfare, and morals.

Restriction on the right to strike for members of the armed forces is expressly established by law. Specifically, Section 16 of the Strike Law prohibits persons who serve in the National Armed Forces from striking and Section 15, Paragraph one of the Military Service Law prohibits soldiers from organising or participating in strikes. This restriction is necessary in a democratic society for the protection of national security and public interest. The role of the armed forces is to ensure defence, sovereignty, and constitutional order of the state. Allowing soldiers to engage in strikes could jeopardise the operational readiness, unity and discipline of the armed forces, thereby undermining the ability of the state to respond effectively to security threats or emergencies. Moreover, such a restriction safeguards the rights and freedoms of others, namely the general public, by ensuring that essential national defence functions are not disrupted.

The Constitutional Court of Latvia (Judgment of the Constitutional Court of 18 October 2023 in case No. 2022-33-01 "On the compliance of Section 10, Part Two and Section 15, Part One, Paragraph 1 of the Military Service Law with the first sentence of Section 91 and Section 102 of the Constitution of the Republic of Latvia) has recognised that limitations on certain rights of soldiers, including the right to strike, are justified due to the unique responsibilities and duties entrusted to them. Soldiers are expected to act with political neutrality and professional commitment, placing the interests of national security above individual claims in certain areas. Therefore, the prohibition on strikes complies with the principles of proportionality and necessity and is consistent with democratic values, human rights standards, and the protection of the public interest.

Although members of the armed forces in Latvia are prohibited from participating in collective strikes, they do have alternative legal mechanisms through which they can effectively challenge and influence decisions concerning their service conditions. In particular, the Military Service Law and the Administrative Procedure Law provide soldiers with the right to appeal decisions made by public officials that affect their service conditions or violate their rights. This includes decisions relating to pay, service conditions, disciplinary measures, or other employment-related issues. If a soldier believes that a decision unlawfully restricts his/her rights, he/she may first challenge the decision within the chain of command, including appealing to the Minister of Defence. If all internal remedies are exhausted and the issue remains unresolved, the soldier has the right to bring the matter before an administrative court for judicial review.

Moreover, any private individual, including a soldier, has the right to apply to the Office of the Ombudsman[3] with a submission outlining his grievances related to the actions of public authorities (Ombudsman Law, Section 23). The Ombudsman reports to the Parliament, the Cabinet of Ministers, and other relevant institutions on human rights and good governance issues, and makes recommendations for improvement. In cases of serious or systemic maladministration, the Ombudsman can initiate legal proceedings. This legal framework ensures that, even in the absence of collective mechanisms such as strikes, personnel of the armed forces retain access to independent and impartial adjudication of disputes. It thereby provides a safeguard for individual rights, consistent with the rule of law and democratic principles.

[3] The Ombudsman, an independent and autonomous body, is tasked with investigating potential human rights violations, evaluating compliance with principles of good administration, and promoting public awareness of human rights.